

IN THE LAHORE HIGH COURT, LAHORE.

C.M. NO. 2/13 IN WP NO. 5597/13
SYED MANSOOR ALI SHAH.
PRESENT MR JUSTICE. _____

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Lahore High Court, Lahore
9/13/13

PETITION UNDER SECTION 151 CPC.

PRAY PARTY NAMES ATTACHED.

ORDER P.T.O.

MS

**IN THE LAHORE HIGH COURT LAHORE
JUDICIAL DEPARTMENT**

Case No: W. P. No. 5597/2013.

Amjad Farooq Alvi.

Versus

Federation of Pakistan etc.

S.No. of order/ Proceeding	Date of order/ Proceeding	Order with signature of Judge, and that of parties of counsel, where necessary.
01.	08.03.2013.	M/s Ch. Muhammad Umar, Ch. Muhammad Atiq and Mufti Ahtsham-ud-Din Haider, Advocates for the petitioner.

Submit that the role of the Federal Government as envisaged under the Pakistan Telecommunication (Re-Organization) Act, 1996 ("Act") is in violation of article 154 of the Constitution of the Islamic Republic of Pakistan, 1973 ("Constitution"). It is contended that under article 154 of the Constitution it is the Council of Common Interest (CCI) which has to formulate and regulate policies relating to the regulatory authorities established under a federal law, as mentioned in Item No.6 of Part-II of the Federal Legislative List, hence Item No.53 of the Rules of Business, 1973 vesting the administrative control in the hands of the Cabinet Division is also offensive to article 154 of the Constitution.

2. It is further contended that rule 4 (2) (b) of the Pakistan Telecommunication Authority's Chairman and Member (Appointment and Qualifications) Rules, 2013 ("Rules") is ultra vires section 3 (4) of the Act read with the judgment of this Court dated 15.01.2013 passed in W.P. No.29005/2012.

3. Further submit that the qualifications of the Members prescribed in Schedule-I to the above Rules are deficient and unreasonable. They submit that the qualificational requirement of Member (Finance) does not include the requirement of MBA (Finance) and in

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the case of Member (Technical) and Member (Compliance and Enforcement) the Membership of the Pakistan Engineering Council is missing.

4. Learned counsel establishing his locus standi submit that the petitioner is a shareholder in M/s Brain Telecommunication Limited which is a Telecommunication Services Provider and a licensee under the Act and is, therefore, aggrieved of the unlawful and unconstitutional regulation of PTA in the telecom sector.

5. Notice to the respondents for 19.03.2013. Respondents No. 1 to 4 and 6 will file their parawise comments before the next date of hearing.

6. As a question of interpretation of constitutional law is involved in this case, let notice be issued under section 27-A of the CPC to the Attorney General for Pakistan, who will seek instructions and assist the Court on the next date of hearing.

7. To come up on 19.03.2013 alongwith connected W.P. No.5459/2013.

C. M. No. 01/2013.

8. Dispensation prayed for is allowed subject to all just and legal exceptions. C. M. disposed of.

C. M. No. 02/2013.

9. Notice for the above date. Till the next date of hearing, respondents are restrained from making any fresh appointments under Rule 4 (2) (b) of the Rules.

10. Copy dasti on payment of usual charges.

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Authorized Under Article 87 of
Qanun-e-Shahadat Order, 1984

(Syed Mansoor Ali Shah)
Judge

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IN THE LAHORE HIGH COURT LAHORE

Writ Petition No. 5597 /2013

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Mr. Amjad Farooq Alvi s/o Dr. Muhammad Farooq Alvi. 730 - Nizam Block,
Allama Iqbal Town, Lahore.

PETITIONER

VERSUS

1. **Federation of Pakistan** through **Secretary Cabinet Division**, Cabinet Block, Constitution Avenue, Islamabad.
2. **Secretary Establishment Division**, Pak Secretariat, Constitution Avenue, Islamabad.
3. **Ministry of Information Technology**, (IT & Telecom Division). Government of Pakistan through its Secretary, 4th Floor Evacuee trust Complex, Agha Khan Road, F-5/1, Islamabad.
4. **Pakistan Telecommunication Authority**, through its Member Technical (the only surviving legally appointed Member), PTA Headquarters F-5/1, Islamabad.
5. **Mr. Farooq Ahmed Awan**, currently posted as Member Finance, Pakistan Telecommunication Authority PTA Headquarters F-5/1, Islamabad.
6. **Council of Common Interests** through its Secretary / Secretary, Ministry of Inter-Provincial Coordination, 2nd Floor, Cabinet Block, Constitution Avenue, Islamabad.

RESPONDENTS

WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN
1973 READ WITH OTHER ENABLING PROVISIONS OF
LAW



Notification is not suspended during pendency of the instant Writ Petition, it would cause huge loss to the Petitioner as well as the general public.

- 6. That in case operation of the Impugned Notification is not suspended; the Petitioner shall suffer **irreparable loss**.
- 7. That passing of order for suspension of Impugned Notification, as prayed for is equitable, fair and just in the peculiar circumstances of this case.
- 8. That Affidavit is annexed.

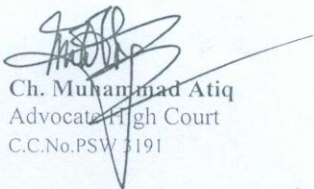
It is therefore most respectfully prayed that operation of Impugned Notification may very kindly be suspended during pendency of the instant Writ Petition and the Respondents no. 1 to 4 be restrained from acting upon and making any appointments pursuant to the PTA appointment rules during pendency of the instant Writ Petition.

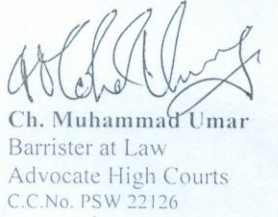
Any other relief, which the Hon'ble Court considers appropriate in the circumstances, may also very kindly be granted.

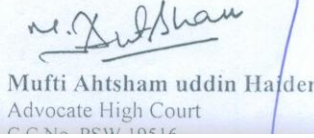


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 Copied & Filed
 Petitioner
 Lahore High Court
 Amjad Farooq Atiq

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